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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States Of America,)	Case No. 2:20-mj-00704-BNW
)	
Plaintiff,)	<u>Stipulation To Continue Preliminary</u>
)	<u>Hearing</u>
vs.)	(Third Request)
)	
KELTON SIMON,)	
)	
Defendant.)	

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A Trutanich, United States Attorney; Lisa Cartier Giroux, Assistant United States Attorney; Kimberly Sokolich, Assistant United States Attorney, representing the United States of America and Todd Leventhal, Esq., counsel for defendant Kelton Simon, that the preliminary hearing in the above captioned case, which is currently scheduled January 5, 2021 at 1:30pm, be continued and reset to a date and time convenient to the Court, but no sooner than thirty (30) days.

1. The government has provided counsel for the defendant with limited Rule 16 Discovery. Counsel for the defendant needs additional time to review the discovery and

1 discuss it with his client prior to a preliminary hearing or indictment. Additionally, the parties
2 are discussing a pre-indictment resolution that may resolve the matter without a preliminary
3 hearing.

4 2. This continuance is not sought for purposes of delay, but to allow defense
5 counsel an opportunity to review discovery with their client and prepare for the preliminary
6 hearing.

7 3. The defendant is not detained and agrees to the continuance.

8 4. Both counsel for the defendant and counsel for the government agree to the
9 continuance.

10 5. Federal Rule of Criminal Procedure 5.1(d) provides that a magistrate judge
11 may extend the time limits in Rule 5.1(c) with the defendant's consent and upon a showing
12 of good cause taking into account the public interest in the prompt disposition of criminal
13 cases. Because the defendant requires additional time to review discovery with their client
14 prior to the preliminary hearing, good cause exists to extend the time limits in Rule 5.1(c).

15 6. The time from January 5, 2021, to the new preliminary hearing date will be
16 excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A),
17 which provides that the Court may exclude time arising from a continuance upon finding
18 that the ends of justice served by granting the continuance outweigh the best interests of the
19 defendant and the public in a speedy trial.

20 7. Denial of this request could result in a miscarriage of justice, and the ends of
21 justice served by granting this request outweigh the best interest of the public and the
22 defendants in a speedy trial.

23 8. The additional time requested by this stipulation is excludable in computing
24 the time within which the indictment must be filed pursuant to the Speedy Trial Act, Title

1 18, United States Code, Section 3161(b), and considering the factors under Title 18, United
2 States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

3 9. This is the third request to continue the preliminary hearing.

4 DATED this 29 day of December, 2020.

5
6 NICHOLAS A. TRUTANICH
United States Attorney

/s/ Todd Leventhal
TODD LEVENTHAL
Counsel for Defendant Kelton Simon

7 /s/ Lisa C. Cartier Giroux
8 LISA C. CARTIER GIROUX
Assistant United States Attorney

9 /s/ Kimberly Sokolich
10 KIMBERLY SOKOLICH
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States Of America,) Case No. 2:20-mj-00704-BNW
)
Plaintiff,) **Findings and Order on Stipulation**
)
vs.)
)
Kelton Simon,)
)
Defendant.)

Based on the pending Stipulation between the defense and the government, and good cause appearing therefore, the Court hereby finds that:

1. The government has provided counsel for the defendant with limited Rule 16 Discovery. Counsel for the defendant requests an opportunity to review the discovery and discuss it with their respective client prior to a preliminary hearing or indictment.
2. To allow the defense time to review the discovery with their client prior to the preliminary hearing and with the defendant's consent, the preliminary hearing in this case should be continued for good cause.
3. The defendant is not detained and agrees to the continuance.
4. Both counsel for the defendant and counsel for the government agree to the continuance.
5. This continuance is not sought for purposes of delay, but to allow defense counsel an opportunity to review discovery with their client prior to a preliminary hearing or indictment.

6. Denial of this request could result in a miscarriage of justice, and the ends of justice served by granting this request outweigh the best interest of the public and the defendants in a speedy trial.

7. The additional time requested by this stipulation is excludable in computing the time within which the indictment must be filed pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(b), and considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the above-captioned matters currently scheduled for January 5, 2021 at 1:30pm, be vacated and continued to February 4, 2021, at 11:30 AM in courtroom #3B.

DATED this 29th day of December, 2020.



THE HONORABLE BRENDA WEKSLER
United States Magistrate Judge